

REMARKS

This paper is submitted in reply to the Office Action dated August 24, 2006, within the three-month period for response. Reconsideration and allowance of all pending claims are respectfully requested.

In the subject Office Action, the Drawings were objected to, and claim 10 was rejected under 35 U.S.C. § 112 second paragraph. Moreover, claims 1-2, 5, 7-9, 20-22, 24-26 and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,571,231 to Sedlar in view of U.S. Patent No. 5,625,804 to Cooper et al. In addition, claims 3-4, 23, and 34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sedlar in view of Cooper et al., and further in view of Official Notice; claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sedlar in view of Cooper et al., and further in view of U.S. Patent No. 5,873,097 to Harris et al.; claims 10-11, 18-19 and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sedlar in view of Cooper et al., and further in view of West et al. (NPL, "Batch Processing excerpt from "Sams Teach Yourself Macromedia Fireworks MX in 24 Hours"), published on 4 December 2002 and Harris; claims 14 and 32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sedlar in view of Cooper et al., and further in view of U.S. Patent Application Publication No. 2003/0217057 to Kuroiwa et al.; claims 12, 15-17, 29 and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sedlar in view of Cooper et al., and further in view of U.S. Patent No. 6,728,907 to Wang et al.; claim 13 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sedlar in view of Cooper et al. and Wang et al., and further in view of Official Notice; claim 27 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sedlar in view of Cooper et al., and further in view of Dubinski (NPL, "non-recursive tree walks," by John Dubinski, published on 1 May 1996; and claims 33 and 35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sedlar in view of Cooper et al., and further in view of U.S. Patent No. 6,338,072 to Durand et al.

Applicants respectfully traverse the Examiner's rejections to the extent that they are maintained. Applicants have amended the specification and claim 10 herein, and Applicants respectfully submit that no new matter is being added by the above

amendments, as the amendments are fully supported in the specification, drawings and claims as originally filed.

Now turning to the subject Office Action, and initially to the Examiner's objections to the Drawings, the Examiner will note that Applicants have amended the specification at pages 20 and 30 to insert the missing reference numbers. In addition, the specification has been amended at page 1 to update the particulars for a cross-referenced application. Withdrawal of the objection to the drawings is respectfully requested.

Next with regard to the § 112, second paragraph rejection, the Examiner will note that Applicants have amended claim 10 to remove the extraneous text. Withdrawal of the § 112 rejection is therefore respectfully requested.

Next turning to the art-based rejections, and specifically to the rejection of independent claim 1, this claim generally recites a method for converting a filesystem from a first type to a second type. The method includes generating a list of directories of the first type in the filesystem to convert, and converting each directory in the list to the second type while maintaining the file system in an active state.

In rejecting claim 1, the Examiner relies on the combination of Sedlar and Cooper. The Examiner asserts that Sedlar discloses the generation of a list of directories, specifically at col. 3, lines 50-61 and in Figs. 1-3, which refer to a directory links table. It is important to note, however, that claim 1 recites "generating a list of directories . . . to convert." Put another way, the claimed list is not just a list of directories, it is a list of directories "to convert."

The cited passages in Sedlar, in particular Fig. 3 and the passage at col. 3, lines 50-61, merely disclose a directory links table. The simple fact that this table includes directories, however, falls short of disclosing "a list of directories . . . to convert." Indeed, Sedlar does not disclose or suggest converting a filesystem from a first type to a second type, so Sedlar does not disclose or suggest that the disclosed table is or could be used as a list of directories to be converted to another type.

In addition, as the Examiner has implicitly acknowledged, Sedlar does not disclose converting a filesystem from a first type to a second type, or converting each

directory in the list to a second type while maintaining a filesystem in an active state. Indeed, Sedlar is completely silent with respect to the concept of filesystem conversion.

Cooper, however, fails to address the shortcomings of Sedlar. The Examiner relies on col. 2, lines 44-59 of Cooper for allegedly disclosing converting directories in a list to a second type while maintaining a filesystem in an active state. Cooper, however, discloses the conversion of individual records to different formats while maintaining a multiprocessor system in an active state. Cooper does not disclose that the records are directories, files, and in fact, does not mention "directories", "files", "folders", or any other analogous structures related to filesystem. Moreover, Cooper does not disclose maintaining a filesystem in an active state while changing directories in that filesystem to different types.

In addition, the conversion of records in Cooper does not include the generation of any list of records to convert. Instead, records are converted in Cooper as they are accessed by individual processors (*see, e.g.*, Figs. 2 and 4a). Cooper does not generate any list of records to be converted, and in fact, does not retrieve records to be converted from a list or otherwise rely on any type of list in connection with converting records. Furthermore, Cooper does not even disclose that the individual records being converted are linked to one another as would be found in a list of directories in a filesystem.

Claim 1 recites converting "each directory in the list," and as such, the fact that Cooper discloses converting the format of individual records falls short of disclosing or suggesting the conversion of directories that are identified in a "list of directories . . . to convert," as required by claim 1.

As such, the combination of Sedlar and Cooper falls short of disclosing each and every feature of claim 1. In particular, neither reference discloses or suggests the generation of a list of directories (or any other data structures) "to convert", and neither reference discloses or suggests converting directories (or any other data structures) "in [a] list [to convert]" to a different type.

In addition, neither reference discloses or suggests converting a filesystem to a different type while maintaining that filesystem in an active state. Sedlar does not address this particular feature, and maintaining a multiprocessor system in an active state

while converting individual records to a different format (as disclosed in Cooper), does not specifically disclose or suggest the conversion of a filesystem to a different type while that filesystem is in an active state.

Applicants also respectfully submit that the rejection is improperly reliant on hindsight. Specifically, neither reference discloses or suggests converting a filesystem to a different type, much less doing so while maintaining that filesystem in an active state. Sedlar merely discloses a filesystem, but no manipulations analogous to converting the filesystem are disclosed or suggested by the reference. Cooper does not even disclose filesystems, directories, or any analogous concepts, and the fact that the reference merely discloses converting individual records to different formats falls short of disclosing or suggesting the conversion of a filesystem. Applicants therefore submit that Cooper does not provide any motivation to one of ordinary skill in the art to modify Sedlar to implement a runtime filesystem conversion process. Absent any evidence of such a motivation, the rejection is necessarily reliant on hindsight, and as such, the rejection cannot be maintained.

Applicants therefore respectfully submit that independent claim 1 is non-obvious over Sedlar and Cooper. Reconsideration and allowance of claim 1, and of claims 2-19 which depend therefrom, are therefore respectfully requested.

Next turning to the rejection of independent claim 20, this claim generally recites a method for converting a filesystem from a first type to a second type. The method includes executing a conversion process to convert each directory of the first type in the filesystem into the second type while maintaining the filesystem in an active state, and terminating the conversion process when every directory of the first type in the filesystem has been converted to the second type.

In rejecting claim 20, the Examiner again relies on the combination of Sedlar and Cooper. However, as discussed above in connection with claim 1, the combination of Sedlar and Cooper does not disclose or suggest a method of converting a filesystem from a first type to a second type while maintaining the filesystem in an active state. Sedlar discloses a filesystem, but does not disclose or suggest converting the filesystem to another type, much less doing so while maintaining that filesystem in an active state.

Likewise, Cooper, while disclosing converting data records to different formats while maintaining a multiprocessor system in an active state, does not even mention filesystems, and certainly does not suggest that the data record conversion process disclosed therein can be used to convert a filesystem.

Applicants respectfully submit that the rejection of claim 20 is improperly reliant on hindsight. In order to establish a *prima facie* case of obviousness for claim 20, the Examiner must present some objective evidence of a motivation in the art to combine Sedlar and Cooper to convert a filesystem from one type to another while maintaining that filesystem in an active state. Sedlar itself does not provide any such motivation, given that there is no discussion in the reference directed to converting a filesystem to a different type. Cooper, likewise, fails to provide any such motivation, given that the reference does not discuss filesystems, or otherwise suggest that the data record conversion process disclosed in the reference could be used in converting a filesystem. Neither reference even appreciates the desirability of converting a filesystem while maintaining that filesystem in an active state. In addition, the Examiner has cited no other reference providing any of the motivation lacking in Sedlar and Cooper.

"Combining prior art references without evidence of such a suggestion, teaching or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability -- the essence of hindsight." In re Dembiczak, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). Applicants submit that in this case, Applicants' disclosure has been used as a blueprint, given that Sedlar and Cooper otherwise have no relationship to one another in terms of the problems addressed thereby or the solutions used to address such problems. As such, Applicants submit that the Examiner has failed to establish a *prima facie* case of obviousness as to claim 20, and that the rejection should be withdrawn. Reconsideration and allowance of claim 20, and of claims 21-23 which depend therefrom, are therefore respectfully requested.

Next turning to the rejection of independent claim 24, this claim recites in part program code configured to generate a list of directories of a first type in a filesystem to convert, and convert each directory in the list to a second type while maintaining the filesystem in an active state. As discussed above in connection with claim 1, this

combination of features is not disclosed or suggested by the combination of Sedlar and Cooper. Accordingly, claim 24 is non-obvious over these references for the same reasons as presented above for claim 1. Reconsideration and allowance of claim 24 are therefore respectfully requested.

Next turning to the rejections of independent claims 25 and 26, these claims recite in part program code configured to initiate a conversion process to convert each directory of a first type in a filesystem into a second type while maintaining the filesystem in an active state, and terminate the conversion process when every directory of the first type in the filesystem has been converted to the second type. As discussed above in connection with claim 20, this combination of features is not disclosed or suggested by the combination of Sedlar and Cooper. Accordingly, claims 25 and 26 are non-obvious over these references for the same reasons as presented above for claim 20. Reconsideration and allowance of claims 25-26, and of claims 27-35 which depend therefrom, are therefore respectfully requested.

As a final matter, Applicants traverse the Examiner's rejections of the dependent claims based upon their dependency on the aforementioned independent claims. Nonetheless, Applicants do note that a number of these claims recite additional features that further distinguish these claims from the references cited by the Examiner. However, in the interest of prosecutorial economy, the patentability of these claims will not be addressed separately herein.

In summary, Applicants respectfully submit that all pending claims are novel and non-obvious over the prior art of record. Reconsideration and allowance of all pending claims are therefore respectfully requested. If the Examiner has any questions regarding the foregoing, or which might otherwise further this case onto allowance, the Examiner may contact the undersigned at (513) 241-2324. Moreover, if any other charges or credits

are necessary to complete this communication, please apply them to Deposit Account 23-3000.

Respectfully submitted,

November 23, 2006

Date

/Scott A. Stinebruner/

Scott A. Stinebruner

Reg. No. 38,323

WOOD, HERRON & EVANS, L.L.P.

2700 Carew Tower

441 Vine Street

Cincinnati, Ohio 45202

Telephone: (513) 241-2324

Facsimile: (513) 241-6234